

## REMARKS

The Final Office Action mailed December 13, 2006, has been received and reviewed. As of the December 13, 2006 Office Action, Claims 11-22 and 32-46 were pending, Claims 11-16, 32-36, 38-40 and 42 were rejected and Claims 17-22, 37, 41 and 43-46 were objected to. Applicant herein amends Claims 11, 32, 39, 42, 43 and 46. Applicant herein cancels Claims 36, 37 and 45. As of this Amendment and Response, Claims 11-22, 32-35, 38-44 and 46 are believed to be in condition for allowance and Applicant respectfully requests reconsideration of the application as amended herein.

### Claim Objections

The Examiner has objected to Claims 42 and 43 under 37 C.F.R. § 1.75(a) and (c) for lack of antecedent basis because of errors in claim dependence. Applicant has amended the claim dependence of Claims 42 and 43 in order to correct the antecedent basis problem as suggested by the Examiner.

Applicant respectfully requests reconsideration of the objection to Claims 42 and 43 based on the above amendments.

### 35 U.S.C. § 112, ¶ 2 Indefiniteness Rejection

The Examiner has rejected Claims 11-22, 38, 45 and 46 under 35 U.S.C. § 112, ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner takes issue with Claim 38 by asserting that it is unclear as to which panel "said panel" refers to.

Claim 38 depends from Claim 32. Contrary to the Examiner's assertion, Claim 32 does not directly recite a plurality of *panels*. Rather, Claim 32 recites in pertinent part: "a plurality of *forms*, each said form having a panel", emphasis added. Thus, it is clear that "said panel" in Claim 38 draws antecedent basis from "a panel" in Claim 32. Therefore, Claim 38 is definite.

The Examiner does not provide any specific basis for the indefiniteness rejection of the other claims, namely Claims 11-22, 45 and 46. Applicant has reviewed the

language of Claims 11-22 and 46 and finds that similar recitations giving rise to the Examiner's concern regarding Claim 38 are also used, but, for the same reasons are definite.

### 35 U.S.C. § 102(b) Anticipation Rejections

The standard for anticipation as set forth by the Court of Appeals for the Federal Circuit is as follows:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

#### Anticipation Rejection Based on U.S. Patent No. 3,405,835 to Eby

Claims 11-18 and 32-42 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Eby.

Applicant notes with appreciation the indication of allowable subject matter in Claim 20. For this reason, Applicant has amended Claim 11 to further include the limitation "said one stake configured to be driven into a portion of ground through said aligned holes". Eby does not appear to disclose stakes "configured to be driven into a portion of ground", as recited in amended Claim 11. Rather, Eby discloses a container configured to receive a hinge pin along panel ends.

Similarly, Applicant notes with appreciation the indication of allowable subject matter in Claims 36 and 37. Consequently, Applicant has amended Claim 32 to include the limitations of Claims 36 and 37, now canceled. Eby does not appear to disclose a system for holding poured material including the limitation "at least one skin panel mounted between two spaced apart forms of said plurality of forms, wherein said skin panel comprises a first portion separated from a second portion by an intermediate portion, said first portion and said second portion extending from said intermediate portion in the same direction and forming a channel that receives a portion of said at least two forms", as recited in amended Claim 32.

Finally, Applicant notes with appreciation the indication of allowable subject matter in Claim 45. Thus, Applicant has amended Claim 39 to include the limitations of Claim 45, now canceled. Eby does not appear to disclose a system for holding poured material including the limitation "a pair of vertical panels, each said vertical panel being fixed on a top surface of said at least one of said plurality of forms", as recited in amended Claim 39.

In view of these amendments, Applicant believes Claims 11-18, 32-35 and 38-42 are not anticipated by Eby. Applicant respectfully requests reconsideration of the anticipation rejection of Claims 11-18, 32-35 and 38-42 based on Eby.

#### ENTRY OF AMENDMENTS

The amendments to Claims 11, 32, 39, 42, 43 and 46 above should be entered by the Examiner because the amendments are supported by the as-filed specification and drawings and do not add any new matter to the application.

### CONCLUSION

Claims 11-22, 32-35, 38-44 and 46 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, the Examiner is respectfully invited to contact Applicant's undersigned attorney.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 50-0881.

Respectfully Submitted,



Paul C. Oestreich  
Registration Number 44,983  
Attorney for Applicant  
MORRISS O'BRYANT COMPAGNI, P.C.  
136 South Main Street, Suite 700  
Salt Lake City, Utah 84101  
(801) 478-0071 Telephone  
(801) 478-0071 Facsimile

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